

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JUNE HILL,	:	
	:	NO. 1:11-cv-00830
Plaintiff,	:	
	:	
v.	:	<b>ORDER</b>
	:	
CITY OF CINCINNATI, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the May 6, 2014 Report and Recommendation of Magistrate Judge Stephanie K. Bowman (doc. 85) concerning Plaintiff's motion for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915. Proper notice was given to the parties, including Plaintiff, as required under 28 U.S.C. § 636(b)(1)(C). Said notice included an admonition that a failure to file objections to the Report and Recommendation in a timely manner "may forfeit rights on appeal" (doc. 85 at 3 (citing Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947, 950 (6th Cir. 1981) ("[A] party shall file objections with the district court or else waive right to appeal."))). To date, no objections have been filed. The docket sheet reflects that Plaintiff, who proceeds pro se, received a copy of the Report and Recommendation on May 9, 2014 (see doc. 86).

The Magistrate Judge has recommended that Plaintiff's motion be denied in light of our March 25, 2014 Opinion and Order (doc. 80). Therein we concluded by certifying that, for the reasons set forth in Part III of our Opinion and Order, any appeal would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3), and, consequently, any application made to this Court to appeal in forma pauperis would be denied (doc. 80 at 13 (citing Fed. R. App. P. 24(a)(3)(A))). Accordingly, we ACCEPT, ADOPT and AFFIRM the recommendation of the Magistrate Judge<sup>1</sup>, and thus DENY Plaintiff June Hill's "Application/Motion to Proceed without Prepayment of Fees (in forma pauperis)" (doc. 84).

As a non-prisoner, Plaintiff is informed again that she may file, within thirty (30) days after the Clerk serves her with this Order, a motion to proceed without prepayment of fees with the United States Court of Appeals for the Sixth Circuit. See Fed. R. App. 24(a)(5); Callihan v. Schneider, 178 F.3d 800, 803-04 (6<sup>th</sup> Cir. 1999), overruling in part Floyd v. United States Postal Serv., 105 F.3d 274, 277 (6<sup>th</sup> Cir. 1997). That motion must include a copy of her affidavit filed with this Court (doc. 84), as well as our statement as to the reasons for denying her pauper status on appeal (doc. 80 and a copy of this Order). See

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<sup>1</sup>The Magistrate Judge correctly recited that we dismissed with prejudice Plaintiff's federal constitutional claims and declined to exercise supplemental jurisdiction over her residual state tort claim for malicious prosecution. That latter claim, however, was dismissed without prejudice (see doc. 80 at 12).

Fed. R. App. 24(a)(5). A failure to file such a motion within this thirty (30)-day time period, or to pay the required filing fee within the same thirty (30) days, will result in her appeal being dismissed for want of prosecution. Callihan, 178 F.3d at 804. Should this occur, Plaintiff's appeal will not be reinstated, even if she subsequently files such a motion or tenders the required filing fee, unless she can demonstrate that she did not receive notice of this Order "within the time period prescribed for by Rule 24(a)(5)." Id.

SO ORDERED.

Dated: May 29, 2014      s/S. Arthur Spiegel  
   S. Arthur Spiegel  
   United States Senior District Judge